Sub c12 cont

170. (New) The isolated protein of claim 169, wherein the isolated protein comprises at least 50 contiguous amino acid residues of the full-length polypeptide encoded by the cDNA contained in ATCC Deposit No. 203500.

86 ~~171~~. (New) The isolated protein of claim ~~169~~ 84, wherein the polypeptide further comprises a heterologous polypeptide sequence.

87 ~~172~~. (New) The isolated protein of claim ~~171~~ 86, wherein the heterologous polypeptide sequence is the Fc domain of an immunoglobulin.

88 ~~173~~. (New) The protein of claim ~~169~~ 84, wherein said protein is glycosylated.

89 ~~174~~. (New) The protein of claim ~~169~~ 84, wherein said protein is pegylated.

Sub c13

~~175~~. (New) A composition comprising the protein of claim 169 and a pharmaceutically acceptable carrier.

91 ~~176~~. (New) The composition of claim ~~175~~ 90, wherein the composition further comprises a liposome.

92 ~~177~~. (New) A protein produced by a method comprising:

(a) expressing the protein of claim ~~169~~ 84 by a cell; and

(b) recovering the protein.--

Remarks

Claims 1, 16, 22-24, 26-27 and new claims 41-177 are pending in the instant application.

Claims 2-15, 17-21, 25, and 28-40 have been canceled, and new claims 41-177 have been added to more particularly point out and distinctly claim the subject matter Applicants regard as the invention. Support for the newly added claims is found throughout the specification as filed. Particularly, support for claims 41-45, 53-56, 64-72, and 80-86 can be found, for example, at page 5, line 32 through page 6, line 7, of the instant specification.

Claims 46-47, 57-58, 73-74, 87-88, 99-100, 110-111, 129-130, 141-142, 153-154, 162-163, and 171-172 find support, for example, at page 98, lines 27-36. Claims 48-49, 59-60, 75-76, 89-90, 101-102, 112-113, 131-132, 143-144, 155-156, 164-165, and 173-174 find support, for example, at page 102, line 31 through page 103, line 16. Support for claims 50, 61, 77, 91, 103, 114, 133, 145, 157, 166, and 175 can be found, for example, at page 6, line 22-23; while claims 51, 62, 78, 92, 104, 115, 134, 146, 158, 167, and 176 find support, for example, at page 209, line 32. Support for claims 52, 63, 79, 93, 105, 116, 135, 147, 159, 168, and 177 can be found, for example, at page 99, lines 11-18. Support for claims 94-97 can be found, for example, at page 39, lines 8-12, and page 40, lines 19-24 and lines 30-32; while claim 98 finds support, for example, at page 41, line 34. Further, support for claims 106-109 can be found, for example, at page 43, lines 16-23. Claims 117-128 find support, for example, at page 65, line 30 through page 66, line 2. Support for claims 136-140 and 148-152 find support, for example, at page 22, lines 28-3; page 28, line 29 through page 29, line 3; and page 48, lines 18-26. Support for claims 160-161 and 169-170 can be found, for example, at page 51, line 34 through page 52, line 2.

The specification has been amended to correct reference to the location of the definition of integers "n" and "m".

No new matter has been added by way of this amendment. Entry of the amendment and remarks is respectfully requested.

Applicant's Duty Under 37 C.F.R. § 1.56

Pursuant to 37 C.F.R. § 1.56, Applicants hereby note that SEQ ID NO:2 and the corresponding clone are related to SEQ ID NO:642 in copending U.S. Patent Application Serial No. 09/504,577.

The Restriction Requirement

The Examiner contends that the inventions are distinct, each from the other, and thus, has required an election under 35 U.S.C. § 121.

In order to be fully responsive, Applicants hereby provisionally elect the invention of Group II, drawn to polypeptides, with traversal. Applicants point out that the claims 14, 15,

18-21, and 38 have been cancelled and that new claims 41 to 177 are directed to subject matter falling within the scope of Group II as defined by the Examiner.

With respect to the Examiner's division of the invention into eight (8) groups and the reasons stated therefor, Applicants respectfully traverse. Applicants submit that even where two patentably distinct inventions appear in a single application, restriction remains improper unless it can be shown that the search and examination of both groups would entail a "serious burden" (*See* M.P.E.P. § 803). In the present situation, no such showing has been made. Even assuming, *arguendo,* that Groups I-VIII represent distinct or independent inventions, Applicants submit that to search and examine the subject matter of all the Groups together would not be a serious burden on the Examiner. For example, as stated by the Examiner in the Office Action dated July 14, 2000, the polynucleotides of Group I are related to the polypeptides of Group II and the antibodies of Group III; the polypeptides of Group II are related to the antibodies of Group III, the agonist of Group IV and the antagonist of Group V. Thus, Applicants submit that a search of the polypeptide claims would clearly provide useful information for the polynucleotide claims and antibody claims. In many, if not most publications, where a published polypeptide is described, the authors also include, as a matter of routine, a polynucleotide sequence encoding this polypeptide. Thus, Applicants submit that a search of polynucleotide claims of the invention would provide useful information for examining claims directed to both polynucleotides and the polypeptides encoded by these polynucleotides. In certain of the claims this is especially true because the polynucleotide sequence of these claims is defined in part by the polypeptide that the polynucleotide sequence encodes. Further, Applicants point out that, in many if not most publications, where a published nucleotide sequence is an open reading frame, the authors also include, as a matter of routine, the deduced amino acid sequence of the encoded polypeptide.

Similarly, a search of the polypeptide claims of the invention would clearly provide useful information for the examination of claims directed to antibodies either produced in response to or having affinity for the subject polypeptides. This is because antibodies are frequently defined by the antigens that they are produced in response to and the epitopes to which they bind. Moreover, in many publications where an antibody is described, the antigen that it was produced in response to is also described.

Further, searches of publications directed to polynucleotides and the use of those polynucleotides would clearly be overlapping. This is so because in many, if not most,

publications which describe polynucleotides, these molecules are described by their function, characterization and/or expression profile. Thus, a search of polynucleotide claims would also provide the Examiner with art directed to the manner in which the claimed polynucleotides could be used in diagnostic and therapeutic indications.

Further, searches of publications directed to polypeptides and the use of those polypeptides would clearly be overlapping. This is so because in many, if not most, publications which describe polypeptides, these molecules are described by their function. Thus, a search of polypeptide claims would also provide the Examiner with art directed to the manner in which the claimed polypeptides could be used to in diagnostics, identification of agonists and antagonist of the polypeptides, and/or to treat disease states.

In view of the above, Applicants submit that the searches for polynucleotides, polypeptides, antibodies, and methods of diagnosing and treating disease states using the proteins of the subject invention would clearly be overlapping and that the search and examination of this subject matter would not entail a serious burden. Accordingly, Applicants request that the Examiner reconsider and withdraw the restriction requirement and examine the subject matter of Groups I-VIII together in the present application.

Accordingly, Applicants respectfully request that the restriction requirement under 35 U.S.C § 121 be reconsidered and withdrawn and the instant claims be examined in one application.

Applicants retain the right to petition from the restriction requirement under 37 C.F.R. § 1.144.

Applicants respectfully request that the above-made amendments and remarks be entered and made of record in the file history of the instant application. If there are any fees due in connection with the filing of this paper, please charge the fees to our deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not

accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Date: January 12, 2001

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